

(2) In addition to the adjustment factor provided in paragraph (d)(1)(i) of this section, prior to September 1, 2006, an adjustment factor of negative 7 ppm shall be applied to the test results from any testing of motor vehicle diesel fuel downstream of the refinery or import facility, to facilitate the transition to ULSD fuel, but only for testing of motor vehicle diesel fuel identified as subject to the 15 ppm sulfur standard of § 80.520(a)(1).

(3) In addition to the adjustment factor provided in paragraph (d)(1)(i) of this section, prior to October 15, 2006, an adjustment factor of negative 7 ppm shall be applied to the test results from any testing of motor vehicle diesel fuel at any retail outlet or wholesale purchaser-consumer facility, to facilitate the transition to ULSD fuel, but only for testing of motor vehicle diesel fuel identified as subject to the 15 ppm sulfur standard of § 80.520(a)(1).

(e) *Materials incorporated by reference.* The Director of the Federal Register approved the incorporation by reference of the document listed in this section as prescribed in 5 U.S.C. 552(a) and 1 CFR part 51. Anyone may inspect copies at the U.S. EPA, Air and Radiation Docket and Information Center, 1301 Constitution Ave., NW., Room B102, EPA West Building, Washington, DC 20460, under EPA docket ID Number EPA-HQ-OAR-2008-0558, or at the National Archives and Records Administration (NARA). The telephone number for the Air Docket Public Reading Room is (202) 566-1742. For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. For further information on these test methods, please contact the Environmental Protection Agency at 734-214-4582.

(1) *ASTM material.* Anyone may purchase copies of these materials from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Dr., West Conshohocken, PA 19428-2959, or by contacting ASTM customer service at 610-832-9585, or by contacting the e-mail address of service@astm.org from the ASTM Web site of <http://www.astm.org>.

(i) ASTM standard method D2622-05 (“ASTM D2622”), Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry, approved November 1, 2005.

(ii) [Reserved]

(iii) ASTM standard method D4294-03 (“ASTM D4294”), Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-Ray Fluorescence Spectrometry, approved November 1, 2003.

(iv) ASTM standard method D5453-08a (“ASTM D5453”), Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence, approved February 1, 2008.

(v) ASTM standard method D6920-07 (“ASTM D6920”), Standard Test Method for Total Sulfur in Naphthas, Distillates, Reformulated Gasolines, Diesels, Biodiesels, and Motor Fuels by Oxidative Combustion and Electrochemical Detection, approved December 1, 2007.

(2) [Reserved]

[69 FR 39184, June 29, 2004, as amended at 70 FR 40896, July 15, 2005; 70 FR 70510, Nov. 22, 2005; 71 FR 16500, Apr. 3, 2006; 71 FR 25719, May 1, 2006; 73 FR 74357, Dec. 8, 2008; 75 FR 22971, Apr. 30, 2010]

§ 80.581 What are the batch testing and sample retention requirements for motor vehicle diesel fuel, NRLM diesel fuel, and ECA marine fuel?

(a) Beginning on June 1, 2006 (or earlier pursuant to § 80.531), for motor vehicle diesel fuel, and beginning June 1, 2010 (or earlier pursuant to § 80.535), for NRLM diesel fuel, and beginning June 1, 2014, for ECA marine fuel, each refiner and importer shall collect a representative sample from each batch of motor vehicle or NRLM diesel fuel produced or imported and subject to the 15 ppm sulfur content standard, or ECA marine fuel subject to the 1,000 ppm sulfur content standard. Batch, for the purposes of this section, means batch as defined under § 80.2 but without the reference to transfer of custody from one facility to another facility.

(b) Except as provided in paragraph (c) of this section, the refiner or importer shall test each sample collected pursuant to paragraph (a) of this section to determine its sulfur content for compliance with the requirements of this subpart prior to the diesel fuel leaving the refinery or import facility, using an appropriate sampling and testing method as specified in § 80.580.

(c)(1) Any refiner who produces motor vehicle, NRLM diesel fuel, or ECA marine fuel using computer-controlled in-line blending equipment, including the use of an on-line analyzer test method that is approved under the provisions of § 80.580, and who, subsequent to the production of the diesel fuel batch tests a composited sample of the batch under the provisions of § 80.580 for purposes of designation and reporting, is exempt from the requirement of paragraph (b) of this section to obtain the test result required under this section prior to the diesel fuel leaving the refinery, provided that the refiner obtains approval from EPA. The requirement of this paragraph (c)(1) that the in-line blending equipment must include an on-line analyzer test method that is approved under the provisions of § 80.580 is effective beginning June 1, 2006.

(2) To obtain an exemption from paragraph (b) of this section, the refiner must submit to EPA all the information required under § 80.65(f)(4)(i)(A). A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the submission is true to the best of his/her belief must accompany any submission under this paragraph (c)(2).

(3) Refiners who seek an exemption under paragraph (c)(2) of this section must comply with any request by EPA for additional information or any other requirements that EPA includes as part of the exemption.

(4) Within 60 days of EPA's receipt of a submission under paragraph (c)(2) of this section, EPA will notify the refiner if the exemption is not approved or of any deficiencies in the refiner's submission, or if any additional information is required or other requirements are included in the exemption pursuant to paragraph (c)(3) of this sec-

tion. In the absence of such notification from EPA, the effective date of an exemption under this paragraph (c) is 60 days from EPA's receipt of the refiner's submission.

(5) EPA reserves the right to modify the requirements of an exemption under this paragraph (c), in whole or in part, at any time, if EPA determines that the refiner's operation does not effectively or adequately control, monitor or document the sulfur content of the refinery's diesel fuel production, or if EPA determines that any other circumstances exist which merit modification of the requirements of an exemption, such as advancements in the state of the art for in-line blending measurement which allow for additional control or more accurate monitoring or documentation of sulfur content. If EPA finds that a refiner provided false or inaccurate information in any submission required for an exemption under this section, upon notification from EPA, the refiner's exemption will be void *ab initio*.

(d) All test results under this section shall be retained for five years and must be provided to EPA upon request.

(e) Samples collected under this section must be retained for at least 30 days and provided to EPA upon request.

[69 FR 39184, June 29, 2004, as amended at 71 FR 25719, May 1, 2006; 75 FR 22971, Apr. 30, 2010]

§ 80.582 What are the sampling and testing methods for the fuel marker?

For heating oil and NRLM diesel fuel subject to the fuel marker requirement in § 80.510(d), (e), or (f), the identification of the presence and concentration of the fuel marker in diesel fuel may be determined using the test procedures qualified in accordance with the requirements in this section.

(a) *Sampling and testing for methods for the fuel marker.* The sampling, sample preparation, and testing methods qualified for use in accordance with the requirements of this section may involve the use of hazardous materials, operations and equipment. This section does not address the associated safety